IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.218 OF 2007

IN

SUMMARY SUIT NO.2246 OF 1988

Thomas Francis Macedo .. Plaintiff.

Versus

Pushpakant C.Merchant & Ors. .. Defendants.

And

Telma Macedo & Ors. .. Applicants.

Mr.Ramesh Rammurthy for applicants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 30th JULY, 2007.

P.C.:

1. This is a Chamber Summons, taken out by the applicants for substituting themselves in the place of the deceased sole plaintiff.

2. Mr.Rammurthy states that Mr.R.K.Kulkarni, learned Advocate, appearing for the plaintiff has expired. He would now be filing Vakalatnama provided the heirs are

brought on record.

3. He states that the original plaintiff expired on 20th September, 2006. The applicants are the wife and the daughter of the deceased respectively. He states that the right to sue survives inasmuch as the transaction, which is made foundation of the plaint and the reliefs therein would enable the applicants to pursue the suit.

4. He states that a copy of the Chamber Summons is duly served on the defendants' Advocate inasmuch as the defendant No.1 has received a copy of this Chamber Summons but he has not filed any reply. Defendant Nos.2 to 6 are represented by an Advocate who lateron was designated as a senior advocate by this Court, therefore the Vakalatnama is under objection.

5. He states that a copy of the Chamber Summons has been served on defendant Nos.2 to 6 and even that fact is not disputed. He undertakes to file his Vakalatnama for the applicants so also affidavit proving service, within a period of two weeks from today.

6. Perused the Chamber Summons and the affidavit in support. In the light of the fact that there is no denial

and the delay being satisfactorily explained, Chamber Summons is made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out within a period of two weeks from today. Amended copy of the plaint be served on the defendants within four weeks from the date of carrying out the amendment. Written statement/additional written statement to be filed within a period of six weeks from the date of receipt of the copy of amended plaint. No order as to costs.

(S.C.Dharmadhikari, J.)